the above principles of law are dangerous not only to the particular community, but a menace to the entire country."

In regard to the "model" juvenile court act Mr. Hurley says:

"Throughout the law the state is made supreme master over the child. The parent is only incidentally considered; he is not made a party to the proceedings, nor is he charged with neglect or inability to care for his child. The state is made to occupy the position of primary parent, with rights superior to that of the natural parent. This is a false and vicious position to take. There is no law or authority to substantiate this doctrine. The rights of the parent are superior to those of the state, and until the parent forfeits these rights the state cannot interfere with his control or custody of the child. Parental rights should not only be protected, but, as far as practicable, preserved." E. L.

Sir John MacDonell on Crime and Its Punishment.—Sir John MacDonell, in a recent address on "The Shifting Bases of Criminal Law," said that there was going on here and elsewhere a process of disintegration of some of the fundamental conceptions of that law, with the result of an uneasy feeling on the part of many who administer it that it is by no means what it ought to be; a sense of perplexity and failure, a turning to and fro in search of a way out of increasing difficulties; a conflict between the book law and that actually administered, and between the aims and methods of criminal law. The very criminals were beginning to have their "new horizons of criminal law." Some European countries—*e. g.,* Holland and Norway—had lately adopted new criminal codes. Austria, Germany and Switzerland had for some years been engaged in preparing new codes. We were doing piecemeal, but on an equal scale, what these countries were doing wholesale. That law is the confluence point of many novel ideas hostile to the established order. The solvent process had been accelerated by such works as "Les Miserables," "Resurrection," "Crime and Punishment," and Mr. Galsworthy's *Justice,* which has done for this generation what Godwin's "Political Justice" and such novels as "Caleb Williams" had done for an earlier generation. He drew attention to several changes affecting criminal law—*e. g.,* the widespread belief that many criminals, even if sane for some purposes, were too feeble-minded to be capable of controlling their conduct; the growing conviction that heredity and environment determined their character and that their character determined their crime; the regularity of criminal statistics, which begot a spirit of fatalism; the failure of prospective punishment to deter those who were accustomed to act upon impulses. He recalled the many admissions as to the failure of the prison to fulfil its object, from the heterogeneous elements collected there and the inability to impose punishments which would deter and yet not be physically or morally injurious. According to the teaching of modern criminologists, the sense of guilt was to disappear; and he quoted the saying of a recent writer: *Sin and guilt may live in the creations of poets; against scientific criticism it cannot stand.*

Describing the modern teaching, that not the crime but the criminal must be considered in apportioning punishment, he has pointed out that this must lead to uncertainty, which it had been the great object of early reformers to prevent. This doctrine must also subvert their teaching as to proportion between crimes and their punishment. To "individualize" punishment was to unequalize it for equal crimes. The lecturer further pointed out the bearing

of these doctrines on the law as to punishing attempts to commit crime. At present criminologists were in a dilemma. They wished both to reform the criminal and to protect society. But the more the criminal law is reformatory or educational, the less is it a deterrent; the more it is a deterrent the less is it educational. The desire to be humane might conflict with effective measures of reformation. Philanthropists, such as the late Mr. Charles Hopwood, pleaded for short sentences, but true reformatory treatment might require long ones. In this conflict between antagonistic aims and modes of treatment seemed at first sight to be the bankruptcy of criminal law as hitherto understood.

J. W. G.

Administration of the Criminal Law in Texas.—In Texas, as in many other states, there has been widespread complaint on account of the law's delay and the frequent miscarriage of justice. In the May (1910) number of the JOURNAL (p. 127), we quoted from an address of the president of the Texas Association of Prosecuting Attorneys, who described the methods by which criminals escape punishment in that state. Statitsics were quoted to show that only a small percentage of criminals were ever convicted, and that 51 per cent of the cases appealed were reversed by the Court of Appeals. The Democratic platform of Texas in 1906 contained a plank demanding simplification of procedure and reform of the jury system. The legislature enacted some legislation in obedience to the popular demand, but the more important reforms proposed were defeated. In his campaign for re-election in 1908 Governor Campbell advocated certain reforms in civil and criminal procedure, and again the state convention repeated its demand for such changes as would reduce the expense of litigation and secure a more speedy administration of justice. In his message to the legislature, January 12 of the present year, Governor Campbell reviewed his efforts to induce action on the part of the legislature and dwelt upon the crying need for reform. Among other things, he said:

"In my last message to the thirtieth legislature, in urging compliance with the platform demand that legislation simplifying the procedure in criminal trials should be enacted, I used the following language: 'The present complex and cumbersome procedure is a shield to the criminal, defeats justice, increases the number of our courts, and adds unnecessary burdens upon the taxpayers. Perplexing technicalities encourage crime, employ the time of the courts to no useful end, and the people pay the costs. A rigid enforcement of all the laws is essential to the social well-being, and is demanded as the only safe guarantee of life, liberty and property. To longer tolerate a system of technical obstacles behind which murderers and rogues may barricade themselves and defy the laws would be a reflection upon the wisdom, if not the sincerity, of our statesmanship. To say that crime can run rampant in Texas, and that our laws cannot be enforced, is to admit that we are incapable of self-government. That our law-abiding citizenship is growing impatient and restless at the law's delays and the uncertainty of punishment for crime cannot be denied. That there is just ground for such a discontent must be conceded. There is too much machinery in our criminal trials, too much literature, and too many refinements in the court's charge to the jury, and too many loopholes through which criminals may escape. When the court's charge in a crim-